

Peter Saltzman (SBN 169698)
Shawn C. Groff (SBN 248022)
LEONARD CARDER, LLP
1330 Broadway, Suite 1450
Oakland, CA 94612
Telephone: (510) 272-0169
Facsimile: (510) 272-0174

Attorneys for Defendants San Francisco Culinary Bartenders and
Service Employees Pension Fund

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUANITA E. SUGUITAN AND
JOHN E. SUGUITAN,

Plaintiffs,

v.

SAN FRANCISCO CULINARY BARTENDERS
AND SERVICE EMPLOYEES PENSION FUND,

Defendants.

) Case No. C 07-05113 JSW
)

) **SAN FRANCISCO CULINARY**
) **BARTENDERS AND SERVICE**
) **EMPLOYEES PENSION FUND'S**
) **ANSWER AND AFFIRMATIVE**
) **DEFENSES**

NOW COMES, the San Francisco Culinary Bartenders and Service Employees Pension
Fund (hereinafter referred to as "Defendant Fund") for its Answer to the Complaint herein avers
as follows:

1. Defendant Fund is without sufficient information to form a belief as to the truth or
falsity of the allegations contained in Paragraph 1 of the Civil Complaint and, therefore, denies
the same.

2. Defendant Fund denies the allegations contained in Paragraph 2 of the Civil
Complaint.

3. Defendant Fund admits that its Board of Trustees denied claims made by
Plaintiffs Juanita E. Suguitan and John E. Suguitan but denies the remaining allegations
contained in Paragraph 3 of the Civil Complaint.

4. Defendant Fund denies the allegations contained in Paragraph 4 of the Civil Complaint.

5. Defendant Fund denies the allegations contained in Paragraph 5 of the Civil Complaint.

6. Defendant Fund hereby denies any remaining allegations in the Civil Complaint not heretofore specifically admitted to be true.

AFFIRMATIVE DEFENSES

Defendant Fund affirmatively alleges the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

AS A FIRST SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that the Civil Complaint and all Claims for Relief contained therein fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

AS A SECOND SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that this Court lacks subject matter jurisdiction over the claims alleged in Plaintiffs' Civil Complaint.

THIRD AFFIRMATIVE DEFENSE

AS A THIRD SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that Plaintiffs' claims are barred by applicable statutes of limitation.

FOURTH AFFIRMATIVE DEFENSE

AS A FOURTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that Plaintiff John E. Suguitan's claims are barred because he has failed and refused to exhaust his administrative remedies available to him prior to initiating this action.

FIFTH AFFIRMATIVE DEFENSE

AS A FIFTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that Plaintiffs have failed to join all necessary and/or indispensable parties under Rule 19 of the Federal Rules of Civil Procedure.

SIXTH AFFIRMATIVE DEFENSE

AS A SIXTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that Plaintiffs have waived their right to seek the relief sought in the Civil Complaint.

SEVENTH AFFIRMATIVE DEFENSE

AS A SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that the Civil Complaint and each claim for relief contained therein are barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

AS AN EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that Plaintiffs have failed to join a real party in interest to this matter.

NINTH AFFIRMATIVE DEFENSE

AS A NINTH SEPARATE AND AFFIRMATIVE DEFENSE TO THE CIVIL COMPLAINT, Defendant Fund alleges that it has insufficient knowledge and information on which to form a belief as to whether it has additional, as yet, unstated, affirmative defenses, and as such, Defendant Fund reserves herein its rights to assert additional affirmative defenses in the event discovery indicates such defenses will be appropriate.

///

///

///

1 WHEREFORE, having fully answered Plaintiffs' Civil Complaint, Defendant San
2 Francisco Culinary Bartenders and Service Employees Pension Fund demands that Plaintiff
3 Juanita E. Suguitan's and John E. Suguitan's Civil Complaint be dismissed with prejudice and
4 that it be awarded their costs and reasonable attorney fees pursuant to ERISA § 502(g)(1);
5 29 U.S.C. § 1132(g)(1).
6

7 Dated: December 18, 2007

Respectfully submitted,
LEONARD CARDER, LLP

8
9
10 By: 

Peter Saltzman
Attorneys for Defendants San Francisco
Culinary Bartenders and Service Employees
Pension Fund
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

PROOF OF SERVICE

I am a citizen of the United States and am employed in Alameda County. I am over the age of eighteen (18) years and not a party to the within action. My business address is 1330 Broadway, Suite 1450, Oakland, CA 94612. On December 18, 2007, I served the following document(s):

**SAN FRANCISCO CULINARY BARTENDERS AND SERVICE EMPLOYEES
PENSION FUND'S ANSWER AND AFFIRMATIVE DEFENSES**

by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as below or stated on the attached service list:

Juanita E. Suguitan
2509 La Union
Gonzales, Tubao
Philippines 601
Email: john_suguitan@yahoo.com

John Suguitan
2509 La Union
Gonzales, Tubao
Philippines 601
Email: john_suguitan12@yahoo.com

☒ **BY ELECTRONIC MAIL:** I caused said document(s) to be transmitted to email address(es) designated.

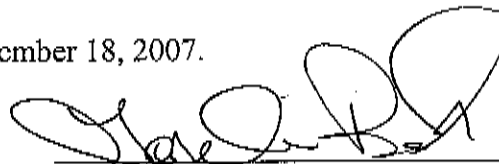
☐ **BY FACSIMILE:** I caused said document(s) to be transmitted to the fax number(s) of the addressee(s) designated.

☒ **BY RETURN RECEIPT FOR INTERNATIONAL MAIL:** I caused such envelope to be deposited in the mail at my business address, addressed to the addressee(s) designated. I am readily familiar with LEONARD, CARDER's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Services on that same day in the ordinary course of business.

☐ **BY OVERNIGHT COURIER SERVICE:** I caused such envelope(s) to be delivered via overnight courier service to the addressee(s) designated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on December 18, 2007.


Lorelei Badar